IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

-

WRIT PETITION NO : 2853 of 2004

Between:

T.Appa Rao, S/o.Narayana,
R/o.H.No.2-54, Tallada Post & Mandal,
Khammam Dist.

..... PETITIONER

AND

1 The Vice Chairman & Managing Director, A.P.State Road Transport Corporation, Musheerabad, Hyderabad.
2 The Divisional Manager, A.P.S.R.T.C.,Khammam, Khammam Dist.
3 The Regional Manager, A.P.S.R.T.C., Khammam, Khammam Dist.
4 Eelaprorlu Sreenu, S/o.Not known,
at APSRTC, Thiruvuru, Krishna Dist. R/o.Thallada Post & Mandal,
Khammam Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, direction more particularly one in the nature of writ of Mandamus declaring questioning the action of the respondents in issuing the notification issued by the respondent corporation vide Tender Notification No.M1/122(1)/2003-RM Khammam, dated 23-10-2003 calling tenders to run the Soda, Cool Drinks and juice stall at serial No.67 in the said notification, without extending further three years period lease to the petitioner herein including the impugned order passed by the 2nd

respondent herein in his proceedings NO.E4/122(35)/2000-RM/KMM, dated 13-2-2004 is opposed to the circular No.83/2003-OPD(c) Dated 29-10-2003, issued by the APSRTC., illegal and void and opposed to Art.14, 19 and 21 of the Constitution of India, in the interest of justice, and to pass.

Counsel for the Petitioner: MR.MUMMANENI.SRINIVASA RAO

Counsel for the Respondents: SMT.G.JYOTHI KIRAN

Smt.P.Rajani Reddy

The Court at the admission stage made the following:

ORDER:

The petitioner was allotted Soda, Cool Drinks and Juice Stall at Room No.3 of Tallada Bus station for a period of three years. The licence period was valid up to 16.2.2004. No doubt, at the time of allotment of the shop, the petitioner was not having any right of renewal of the shop. After the expiry of the said lease period, the shop has to be leased out by way of public auction only. But, in the meanwhile, the first respondent issued a circular No.83/2003-OPD(C) dated 29.10.2003 resolving to extend licence period of existing licensees as on 1.10.2003 and willing to continue the business on payment of enhanced licence fee. Admittedly, the petitioner is one of the existing licensees as on 1.10.2003 and his licence valid up to 16.2.2004. The circular says even if any tenders are called prior to 1.3.2003 whose licence period is not expired, they are also entitled for extension of three more years to make it the total period of six years on condition the licensee has to increase 30% of the licence fee in 4^{th} year, 25% in 5^{th} year and 20% in 6^{th} year over the licence fee payable in 3^{rd}, 4^{th} and 5^{th} year of licence respectively. But the extension of licence period for three more years shall be subject to the condition that the existing licensee shall give willingness in writing at least three months before the expiry of the licence period for continuing the same business. The licensee seeking extension of licence period shall not default in payment of monthly licence fee and they also file an undertaking to the effect that they will pay the enhanced fee and

vacate the premises after completion of the period of licence.

The learned Standing Counsel for the respondent-Corporation submits that even before the issuance of the circular dated 29.10.2003, tender notification was issued on 23.10.2003 and, therefore, the shop was auctioned and the 4th respondent became the highest bidder offering the sum of Rs.7,177/- on a monthly licence fee.

The petitioner impleaded the said auction purchaser also and even after service of notice, none appears on his behalf. On the other hand, the petitioner filed a reply affidavit stating that the 4th respondent has already taken away the E.M.D and the shop was not entrusted in favour of the 4th respondent.

On a perusal of the said circular dated 29.10.2003, it goes to show that even though tender notifications have been issued, the existing licensees are entitled for extension of licence subject to the condition of payment of enhanced licence fee. Hence, respondents are bound to extend the period of licence. In view of the same, the impugned order is set aside. The respondents are directed to allot the shop, in question, in favour of the petitioner subject to fulfilling all the terms and conditions of the circular dated 29.10.2003, i.e., payment of enhanced licence fee from 16.2.2004 and to deposit regularly the licence fee. On depositing the entire arrears of licence fee, he shall file an undertaking to the effect that he will vacate and hand over the premises on completion of total licence period of six years. Any default in depositing the arrears of licence fee within a period of two weeks from the date of receipt of this order, it is open for the respondents to allot the said shop by way of public auction in favour of third parties.

The writ petition is, accordingly, allowed. No order as to costs.

(V.ESWARAIAH, J.)

23.3.2005

kpr

To

1 The Vice Chairman & Managing Director, A.P.State Road Transport

Corporation, Musheerabad, Hyderabad.
2 The Divisional Manager, A.P.S.R.T.C.,Khammam, Khammam Dist.
3 The Regional Manager, A.P.S.R.T.C., Khammam, Khammam Dist.

4. 2 copies to Smt.G.Jyothi Kiran, Standing Counsel for A.P.S.R.T.C.

5. 2 C.D. copies